

# **COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTERS	<input type="checkbox"/>	DATE	<u><b>November 27, 2006</b></u>
MOTOR CARRIER MATTERS	<input type="checkbox"/>	DOCKET NO.	<u><b>2006-92-WS</b></u>
UTILITIES MATTERS	<input checked="" type="checkbox"/>		<u></u>

## **SUBJECT:**

DOCKET NO. 2006-92-WS - Application of Carolina Water Service, Incorporated (CWS) for Adjustment of Rates and Charges for the Provision of Water and Sewer Service – Discuss with the Commission a Petition for Rehearing or Reconsideration, or Alternatively, Request for Approval of Bond Filed by John M. S. Hoefer, Esquire on Behalf of the Applicant along with the Office of Regulatory Staff’s Petition for Rehearing or Reconsideration of Order No. 2006-543.

## **COMMISSION ACTION:**

Move that both the Carolina Water Service (CWS) and the Office of Regulatory Staff’s Petitions for Reconsideration or Rehearing in this case be denied. I believe that the legal positions taken by the parties are contrary to the intent of the Legislature and contrary to South Carolina Supreme Court precedent. I do not believe that Act 175 or any other statute changed the fact that the Commission is the ultimate arbiter of just and reasonable rates and whether the approval of specific rates is in the public interest. Further, there is case law from the South Carolina Supreme Court that challenges the view of the parties in this case that only a party to a case may challenge a Company’s rate structure or other portions of a Company’s rate case.

In denying the Petitions of the parties, I believe that we should emphasize that the Commission has the right to seek further information, especially with regard to matters raised in hearings before this Commission during a rate proceeding. Also, I believe that the Commission’s order should emphasize that there is no absolute right to settle a case before this Commission, especially when the parties enter into a settlement without providing requested relevant information and witnesses to this Commission. Further, I believe that we need to emphasize, as we did in our first order, that the proposed Settlement Agreement in this case might have been approved, and rate relief granted, had the Parties provided a meaningful response to this Commission’s concerns. In general, move that we hold that the grounds stated in both Petitions are without merit, and, accordingly, that the Petitions should be denied. I also move that a notation be placed in our directive stating that this Commission will subsequently file a formal final order setting out in more detail the legal reasoning and authority supporting this ruling.

Finally, with regard to the alternate motion of Carolina Water Service that this Commission approve a bond pursuant to S.C. Code Ann. Section 58-5-240(D) in the amount of \$474,117, move that this Commission approve this amount and the bond form attached to the CWS Petition as an appropriate bond while the matter is on appeal. Lastly, move that we hold in abeyance any ruling on the method by which the Company shall make any refunds, should refunds become necessary.

PRESIDING Moseley

	MOTION	YES	NO	OTHER
CLYBURN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HAMILTON	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
MOSELEY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WRIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Session: Regular

Time of Session 2:30 PM

APPROVED ☐

APPROVED STC 30 ☐

DAYS

ACCEPTED FOR FILING ☐

DENIED ☐

AMENDED ☐

TRANSFERRED ☐

SUSPENDED ☐

CANCELED ☐

SET FOR HEARING ☐

ADVISED ☐

CARRIED OVER ☐

RECORDED BY T. DeSanty